

Counsel in Assassination Inquiry Often Target of Crit

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WASHINGTON, Jan. 1 — The chief counsel and director of the House committee investigating the assassinations of President Kennedy and the Rev. Dr. Martin Luther King Jr. is a former prosecutor whose judgment and actions have been subject to formal criticism on a number of occasions.

According to Representative Thomas N. Downing, chairman of the House Select Committee on Assassinations, the controversial background of Richard A. Sprague, the committee's chief counsel, was known to Congress when he was selected for the politically sensitive job of re-examining the conclusions of the previous investigations of the two killings.

The committee was established on Sept. 17 and Mr. Sprague's selection was announced two weeks later. Functioning for the last three months on a \$150,000 budget, the committee now has a staff of 68 lawyers, investigators and technicians.

With the release yesterday of an interim report describing what it called important new possible leads, Mr. Sprague and the members of the committee hope to persuade the House to provide at least \$13 million for a two-year investigation by a staff of 170.

Opposition to Inquiry

However, there is some opposition in the House of Representatives to the committee and some doubt about the need for the re-investigation and the size of the proposed budget. Mr. Sprague's controversial record could affect the House debate over the committee's future.

Mr. Sprague won wide acclaim for his successful prosecution of the killers of Joseph A. Yablonski, the United Mine Workers insurgent leader, and his family, and for the conviction of scores of other murderers in his 18-year career in the office of the Philadelphia District Attorney.

In a two-and-a-half-hour interview in the committee's office this week, Mr. Sprague described himself as a dedicated public servant and said that most of the criticisms of him were a result of the highly tumultuous nature of Pennsylvania politics.

But an examination of official reports and records and interviews with a number of Philadelphians has uncovered at least five situations in which Mr. Sprague's official and unofficial actions have been faulted by the Pennsylvania Supreme Court, the Attorney General of Pennsylvania, the Pennsylvania Crime Commission and elected officials.

Three years ago, for example, the Pennsylvania Attorney General issued a two-inch thick report on Mr. Sprague's handling of a homicide case in which the son of a good friend was involved in a dispute leading to the death of a man named John Russell Applegate.



The New York Times/George Tamas

Richard A. Sprague, right, conferring with Walter E. Fauntroy, delegate from District of Columbia, on Select Committee report on assassinations.

U.S. Agency Criticism

Concerning Mr. Sprague's administrative abilities, the Citizens Crime Commission of Philadelphia made public two years ago a 60-page report on the Philadelphia prosecutor's office that had been compiled by Charles Rogovin, a criminal justice consultant, under a grant from the United States Law Enforcement Assistance Administration.

"The principal impressions received during the initial review of this office were an inordinate concentration of authority in the first assistant district attorney, Mr. Sprague, a lack of necessary delegations of authority to division chiefs and very serious deficiencies in administration throughout the entire organization," Mr. Rogovin concluded.

Representative Downing, the head of the select committee, said in response to a detailed inquiry that he tended "to think that Mr. Sprague's overall qualifications minimized any indiscretions he may have made during his career."

Problems Are Cited

"It is unfortunate that various matters were not properly pursued in 1963 immediately after the death of Applegate," the 1973 report concluded, citing unresolved conflicts in the testimony of key participants, additional witnesses who were not interviewed, an incomplete fingerprint search at the death scene and faulty lie-detector and blood tests.

A second controversial case involved a Philadelphia detective who worked as Mr. Sprague's chief investigator and who once trailed the husband of Mr. Sprague's girlfriend to what was alleged to be a motel rendezvous with another woman. The detective testified under oath in a divorce proceeding that he had undertaken the clandestine spying on his own time and without pay but at the request of Mr. Sprague.

Two years later, the Supreme Court issued a decision involving the same domestic squabble in which Mr. Sprague was said to have done in his office much of the legal work that led to the arrest for contempt of court of the same man who had been followed by the detective.

The court's 1969 decision characterized the contempt of court action that led to the arrest of this man as a "gross injustice" and said that the legal proceedings "were sorely lacking in due process."

No Background Investigation

Mr. Downing, a Virginia Democrat who will retire from Congress next week, acknowledged that he had never heard of the various official criticisms concerning Mr. Sprague and that Mr. Sprague had been selected as chief counsel without a background investigation.

Mr. Downing said that, based on his experience in working with Mr. Sprague over the last three months, he was convinced the former prosecutor would make "a great contribution to the committee's effort."

He said he had selected Mr. Sprague from a list of about six candidates after an interview. A number of members of the committee apparently helped in the preparation of the final list, but neither Mr. Downing nor Representative Henry B. Gonzales, the Texas Democrat who is expected to be named the next chairman, could remember who specifically recommended Mr. Sprague.

Mark Lane, one of the leading critics of the official explanation of President Kennedy's assassination, has said that he recommended Mr. Sprague. One committee source, however, said that the Philadelphia prosecutor had been suggested by several Congressmen.

In addition to Mr. Sprague's general defense of his reputation, the former prosecutor offered detailed explanations of each of the criticisms of his actions that he contended showed the criticisms were groundless.

Concerning the criticism of his handling of the murder case involving the son of

a friend, for example, Mr. Sprague argued that the alleged failure to make an adequate investigation should have been directed by the Attorney General's report at the Philadelphia police and not himself, even though he was in charge of both the individual case and the District Attorney's homicide squad.

According to the Attorney's General's report on the affair, Mr. Sprague personally recommended that no charges be brought against Rocco Urella Jr. and Donald F. Scallessa, then students at LaSalle College, in the death of Mr. Applegate.

The report quoted Mr. Sprague as saying that he had handled the case at the request of Mr. Urella's father, a close friend who at that time was a captain in the Pennsylvania state police.

Louis Vignola, at the time a district magistrate, said that because he was not a lawyer he had relied on Mr. Sprague's recommendation that there was insufficient evidence to bring a murder charge in the case.

Mr. Sprague, according to the report, said that he did not believe it was improper for him to have handled this case because what the State Attorney General's report now describes as a faulty police investigation had not found any evidence that the son of his friend had contributed to Mr. Applegate's death.

Domestic Case Explained

Concerning his actions regarding the former husband of his girlfriend, Mr. Sprague said that he now understands how the use of a county detective, even if voluntary, might be subject to misunderstanding.

"Thinking of it subsequently, I don't think there was anything wrong with my action but it would have been wiser perhaps to have hired a private investigator," he said.

But Mr. Sprague defended his role in helping his friend obtain a contempt of court citation and criticized the Pennsylvania Supreme Court on the grounds that it had issued its opinion in the case without giving either him or the judge who signed the contempt citation an opportunity to make their case.

As for the report by the Citizens Crime Commission of Philadelphia, Mr. Sprague dismissed it as a substantively weak and politically motivated document whose publication had been arranged by the present Philadelphia District Attorney, F. Emmett Fitzpatrick, with whom he had many disputes.

Other Cases in Dispute

A number of other actions of Mr. Sprague have been questioned or criticized. On May 25, 1972, for example, the Philadelphia District Attorney's office charged Gregory P. Walter, one of that city's leading investigative reporters, with recording his own telephone conversations without informing the persons to whom he was talking.

Mr. Sprague, then the busy first assistant district attorney, personally handled the prosecution of Mr. Walter in the misdemeanor court. It resulted in a conviction and a \$350 fine. Mr. Walter's lawyer, Gregory M. Harvey, argued that because the Philadelphia police and fire departments routinely recorded all incoming calls without informing the callers, the case appeared to represent selective enforcement of an unusual Pennsylvania law.

The case against Mr. Walter was "terminated" by agreement between his lawyer and the district attorney after it was appealed to the next court.

Mr. Sprague said the decision to prosecute Mr. Walter, who was working on a major story about police corruption, was made by Arlen Specter, then the District Attorney, and that he had personally handled the prosecution in the lower court at the specific request of Mr. Specter.

Several months later, on April 19, 1973, Mr. Sprague brought a \$2 million libel suit against The Philadelphia Inquirer, Mr. Walter and several other reporters and editors, for a series of articles about his handling of the Applegate murder. This action is still pending.

Crime Commission Criticism

During the summer of 1971, the Pennsylvania Crime Commission, controlled by the Democratic administration of Gov. Milton J. Shapp, issued a report charging widespread political corruption in Delaware County, a Republican stronghold. On Sept. 24, 1971, Stephen McEwen Jr., the Delaware County District Attorney, announced the appointment of Mr. Sprague as a special prosecutor to look into the allegations of corruption.

On June 30, 1974, the crime commission issued another report charging that "despite possessing extensive records of what appears to be systematic forced political contributions by county officials, Mr. Sprague has issued no criminal charges and has not yet even reported on the results of his investigation despite

Four months later, on Oct. 18, Mr. Sprague issued his own 36-page report, denouncing the crime commission for denouncing him and accusing the commission of refusing to cooperate with it

investigation of Delaware County, done with the assistance of two detectives and two assistant district attorneys from Philadelphia and volunteer law students.

During his interview, Mr. Sprague said that his investigation and report on Delaware County had been delayed because he at the same time was serving as special prosecutor in the Yablonski killing and as first assistant district attorney in Philadelphia.

On Feb. 24, 1967, Paul Delahanty was found not guilty of homicide in a Philadelphia courtroom. The principal reason for the decision: a Police Department evidence expert named Agnes Bell Malatratt, who had repeatedly testified as a professional witness for the Philadelphia District Attorney's office, had been discov-

ered to have lied about her qualifications and training.

Both Mr. Sprague and Arlen Specter, then the Philadelphia District Attorney, unsuccessfully argued that the misstatements by Mrs. Malatratt were of no importance because she was in fact an expert witness.

Even Mr. Sprague's string of convictions in the Yablonski murders has not been free from criticism. Although the special prosecutor is widely praised for dogged detective work and brilliant courtroom tactics in the long series of state and Federal trials, their expense did become an issue.

According to Frank Mascara, the newly elected comptroller in Washington County, Pa., one reason he won the Democratic primary earlier this year was his criticism of his opponent—who had held the position for 20 years—for approving the \$440,000 expense of the trials.

"Sprague wasn't very careful with the money during the first trial and I raised hell about it," said Mr. Mascara in a recent interview. "They would say you can't put a price tag on justice and would say baloney, you can have justice in a frugal manner."

Mr. Sprague, in his interview, denied that the cost of the trials was in any way extravagant and pointed out that the state ultimately refunded most of the county's expenditures for the prosecution. But the select committee's estimate that its investigation will cost at least \$1 million has already been criticized as extravagant by several members of Congress.

"There is a price to being a public official, to being in the goldfish bowl, it doesn't mean you have to be subjected to smears and distortions," Mr. Sprague said at the end of the interview.

"I do feel the public in general not have dedicated people serving in public interest. But I happen to have been a good public servant," he